

WASHINGTON STATE COURT OF APPEALS  
DIVISION II

In Re Personal Restraint  
Petition of:

FORREST EUGENE AMOS,  
Petitioner.

No. \_\_\_\_\_

PERSONAL RESTRAINT PETITION  
RAP 16.3 (a)

FILED  
COURT OF APPEALS  
DIVISION II  
2016 JAN 11 AM 9:11  
STATE OF WASHINGTON  
DEPUTY

OPENING STATEMENT

With the State's illegal and unlawful intrusion into Mr. Amos' attorney-client privileges rendering his counsel ineffective, Mr. Amos did not receive effective assistance of counsel in any further judicial proceeding from the date of the intrusion. Mr. Amos was left with no other option but to negotiate the best possible plea agreement he could with counsel that did not meet Constitutional standards for effective assistance of counsel.

Upon arriving at DOC, DOC was first to take notice and assign error to Mr. Amos' void Judgment and Sentence in an email to Lewis County Deputy Prosecuting Attorney William Halstead. In that email, DOC asked to remove the confinement time of 12 months on both counts 5 and 6 from the felony J&S and correct the total confinement time to 120 months because RCW 9A.20.021 (2) and RCW 9.92.020 require gross misdemeanor's to be served in the County Jail which was upheld in State v. Besio, 80 Wn. App. 426, 907 P.2d 1220 (1995).

Exh. 1

As a result of Doc's email, DPA Halstead breached Mr. Amos' plea agreement by amending his J&S to include two separate terms of confinement. Exh. 2.

Mr. Amos was not notified or present when his J&S was amended. After becoming aware of the amendment, Mr. Amos filed a timely Notice of Appeal, COA's No. 46940-5-II. Mr. Amos was returned back to the trial court after requesting an order of Indigency, so he could pursue his right to appeal. Judge Brosey refused to hear Mr. Amos' indigency request, instead vacated the order amending his Judgment and Sentence, and told Mr. Amos to file a PRP if he wanted to correct his erroneous sentence. Exh. 3. Mr. Amos' appeal was dismissed because he was unable to pay the filing fee or get an order of indigency from the trial court.

The trial court, DPA Halstead and Doc all have chosen to ignore Mr. Amos' illegal sentence in excess of statutory authority, which they are not at liberty to do. Exh. 4

1.) STATUS OF PETITIONER.

Forrest Eugene Amos is currently incarcerated at Stafford Creek Corrections Center, 191 Constantine way, Aberdeen WA 98520, pursuant to a 144 month sentence imposed upon him by Lewis County Superior Court Judge Richard Brosey, cause No. 13-1-00818-6, on August 20, 2014. Exh. 5.

Mr. Amos' sentence was a result of a guilty plea pursuant to a negotiated plea agreement with DPA Halstead on July 31, 2014. Exh. 6.

Mr. Amos' J&S was amended on October 30, 2014 after Doc assigned error. Exh. 2.

Judge Brosey vacated the Order Amending Judgment and Sentence on January 8, 2015 and Mr. Amos was told to file a PRP within one year. Exh. 3.

Mr. Amos now brings a timely Personal Restraint Petition pursuant to RAP 16.3 (a) within one year of the Order Amending Judgment and Sentencing being vacated. Prison mailbox rule applies here. FILED 1-5-16.

2.) GROUND FOR RELIEF.

Mr. Amos alleges he is being unlawfully restrained based on the following grounds . . . .

## GROUND ONE

THE STATE'S ILLEGAL AND UNLAWFUL INTRUSION INTO AMOS' ATTORNEY-CLIENT PRIVILEGES RENDERED HIS COUNSEL INEFFECTIVE THEREBY DEPRIVING AMOS EFFECTIVE ASSISTANCE OF COUNSEL IN ALL FURTHER JUDICIAL PROCEEDINGS FROM THE DATE OF THE INTRUSION. THIS VIOLATES AMOS' RIGHT TO COUNSEL AND DUE PROCESS UNDER THE 5<sup>TH</sup>, 6<sup>TH</sup>, AND 14<sup>TH</sup> AMENDMENTS OF THE U.S. CONSTITUTION AND ARTICLE I, SECTIONS 3 AND 22 OF THE WASHINGTON CONSTITUTION.

Mr. Amos' claim involves two bodies of law that collide with each other requiring conflicting burdens and remedies.

First, Mr. Amos claims the state's illegal and unlawful intrusion into his attorney-client privileges rendered his counsel ineffective violating his Right to Counsel and due process.

The right to counsel is protected by the Washington State Constitution and by the United States Constitution. State v. Cory, 62 Wn.2d 371, 373, 382 P.2d 1019 (1963). A defendant cannot receive effective assistance of counsel without the right to confer with counsel in private. *Id.* at 373-74. "Intrusion into private attorney-client communications violates a defendant's right to effective representation and due process," *Id.*

The Fifth and Sixth Amendments "unqualifiedly guard the right to assistance of counsel, without making the vindication of the right depend upon whether its denial results

in demonstrable prejudice." Cory, 62 Wn.2d at 376 (quoting Coplon v. United States, 191 F.2d 749, 759 (1951)). The violation of a constitutional right is presumed to be prejudicial. The burden is on the State, not the defense, to show the absence of prejudice. State v. Guloy, 104 Wn.2d 412, 425, 705 P.2d 1182 (1985); see also State v. Garza, 99 Wn. App. 291, 299-300, 994 P.2d 868 (2000).

In cases where the State intruded into attorney-client privileges "dismissal of the prosecution is the sole adequate remedy for the intrusion. RCW 5.60.066 (2)(a)." State v. Perrow, 156 Wn. App. 322, 231 P.3d 853 (2010).

Second, Mr. Amos claims he was deprived effective assistance of counsel in all further judicial proceedings from the date of the State's illegal and unlawful intrusion. This requires Mr. Amos to overcome the presumption that his counsel was effective in all judicial proceedings following the intrusion. State v. Thiefaul, 160 Wn.2d 409, 414, 158 P.3d 580 (2007). To do this, Mr. Amos must demonstrate that "(1) counsel's representation fell below an objective standard of reasonableness, and (2) the deficient performance prejudice the defense." Strickland v. Washington, 466 U.S. 668, 687-88, 104 S.Ct. 2052, 80 L.Ed.2d 674 & 692 (1984).

If proved, the remedy would be to restore the defendant's right to effective assistance of counsel by allowing him a new trial, withdrawing his guilty plea, new sentencing hearing, etc.... It would not allow for dismissal.

Mr. Amos should not be required to sift through every judicial proceeding following the State's intrusion in order to identify and demonstrate why his counsel's representation fell below an objective standard of reasonableness and why it prejudice him, for the very reason it was the State's intrusion that rendered Mr. Amos' Counsel ineffective and violated his right to counsel. "Intrusion into private attorney-client communications violates a defendant's right to effective representation and due process." Cory, 62 Wn.2d at 373-74.

Mr. Amos' Counsel does not magically become effective after the intrusion for the purposes of representing him in negotiating a plea agreement, deciding whether or not to plead guilty, or even at sentencing, when it was the State who forever ended the possibility of any useful relation between Mr. Amos and his counsel. Dike v. Dike, 75 Wn.2d 1, 10, 448 P.2d 490 (1968); Henry S. Drinker, Legal Ethics, 133 (1953). It was at that point, Mr. Amos was deprived of his most valuable vehicle for navigating through today's court system, his Right to Counsel. When that occurs, nothing else should matter because effective representation does not exist without representation.

The right to counsel is among the most basic to a fair trial. State v. Robinson, 79 Wn.2d 386, 304, 902 P.2d 652 (1995) (citing Chapman v. California, 386 U.S. 18, 23 & n.8, 17 L.Ed.2d 705, 710, 87 S.Ct. 824, 828 & n.8, 24 A.L.R.3d 1065 (1967); Gideon v. Wainwright, 372 U.S. 335, 9 L.Ed.2d 799, 83 S.Ct. 792, 93 A.L.R.2d 733 (1963)).

For the sake of argument, Mr. Amos claims his counsel's representation fell below an objective standard of reasonableness based on the obvious fact that counsel failed to move for dismissal pursuant to CrR 8.3(b) when he was fully aware of the state's illegal and unlawful intrusion into his and Mr. Amos' attorney-client privilege. In fact, even after establishing a number of facts and questioning jail staff regarding the intrusion, counsel still failed to file a motion to dismiss. There is no excuse for counsel's deficient representation.

The prejudicial effect caused Mr. Amos to be deprived of his right to participate in his defense and a fair trial. Mr. Amos' counsel requested that Mr. Amos write notes and witness questions as he read threw his case discovery in order to assist him. Mr. Amos' case discovery and written legal materials were illegally and unlawfully seized by Detective Haggerty and shared with DPA Halstead.

Furthermore, Detective Haggerty and DPA Halstead became privy to confidential communications Mr. Amos had with prior defense counsel, Chris Baum, when his legal mail was also seized and read during the intrusion. This privileged communication regarded how Mr. Amos was talking to state witness Jennifer Lantau by using fake names while awaiting trial. The fact that Mr. Haggerty and DPA Halstead became privy to that information destroyed Mr. Amos' defense and right to a fair trial. Mr. Amos was left with no other choice but to plead guilty to the best plea agreement he could negotiate. This only furthered counsel's deficient representation. Counsel advised Mr. Amos to plead guilty to a sentence in excess of statutory authority and allowed the state to breach the plea agreement. Counsel incorrectly advised him that his gross misdemeanor sentences could be

served in Doc with his felony sentence since they run consecutive. This was caught on record at Mr. Amos' Sentencing.

"Mr. Blair: I actually think there's a provision where these gross misdemeanors can be served in the Department of Corrections."

"Mr. Blair: . . . . My understanding is that when gross misdemeanors are sentenced alongside felonies, they can actually do the gross misdemeanor time in Doc. I think there's a case right on Point," RP 6-7 (8/20/14).

Even more shocking, Mr. Amos' counsel advised him to waive not only his right to appeal but his right to every avenue of collateral attack. This has left Mr. Amos with absolutely no avenue to correct his erroneous sentence in excess of statutory authority; Challenge the state's breach of the plea agreement; or the state's illegal and unlawful intrusion into his attorney-client privilege. Mr Amos cannot even challenge his own counsel's ineffectiveness.

For these reasons, Mr. Amos has demonstrated that his counsel's representation fell below an objective standard of reasonableness, and caused prejudice as a result.

The state's purposeful violation of Mr. Amos' right to counsel and the ineffectiveness of that right, shocks a universal sense of fairness and violates Mr. Amos' right to due process. Mr. Amos' convictions should be dismissed with prejudice without regard to his plea agreement and guilty plea because CrR 4.2 (f) does not remedy the state's intrusion into Mr. Amos' right to counsel in this case.

## THE INTRUSION

Upon being booked into the Lewis County Jail, Detective Adam Haggerty #328 ordered the jail to photocopy all of Mr. Amos' incoming and outgoing mail and forward it to him and DPA Halstead. Mr. Haggerty omitted this material fact in his search warrant affidavit. This constitutes fraud and malfeasance.

The jail assigned this task to officer Jack Haskins who complied with the order and processed all of Mr. Amos' mail including "Legal Mail" on a daily basis.

After being charged, Mr. Amos was provided a copy of his case discovery. Defense Counsel, Don Blair, asked Mr. Amos to write notes as he read threw the case discovery and prepair witness questions in order to assist Mr. Blair when questioning witnesses. State v. Perrow, 156 Wn. App. 322, 231 P.3d 853 (2010) (written materials prepared by the defendant at his attorney's behest were protected by attorney-client privileges. Rew 5.60.060 (2)(a)).

On June 17, 2014, while continuing to investigate Mr. Amos for other alleged crimes, witness tampering, Mr. Haggerty obtained a search warrant for Mr. Amos' jail cell from Judge Buzzard in Lewis County District Court, case No. 13A7516. District Court did not have jurisdiction over Mr. Amos' Superior Court case he was being held in the jail on. Mr. Amos' defense Counsel was not given notice or hearing on the ex parte issuance of the search warrant. This violated Mr. Amos' right to counsel

and due process.

Under the Sixth Amendment a defendant's right to counsel commences "at or after the time that judicial proceeding have been initiated, whether by way of formal charge, preliminary hearing, indictment, information, or arraignment." Fellers v. United States, 540 U.S. 519, 523, 124 S.Ct. 1019, 157 L.Ed.2d 1016 (2004); State v. Bradford, 95 Wn.App. 935, 947-48, 978 P.2d 534 (1999) (Right to counsel under Washington Constitution article I, section 22 attaches at time of charge.).

Once the right to counsel attached, any attempts by the State to obtain evidence from Mr. Amos needed to involve participation of defense counsel. Michigan v. Jackson, 475 U.S. 625, 632 n.5, 106 S.Ct. 1404, 89 L.Ed.2d 631 (1986) ("after the initiation of adversary judicial proceedings, the Sixth Amendment provides a right to counsel at a 'critical stage' even when there is no interrogation"); Main v. Moulton, 474 U.S. 159, 179-80, 106 S.Ct. 477, 88 L.Ed.2d 481 (1985) ("In seeking evidence pertaining to pending charges... the Government's investigative powers are limited by the Sixth Amendment rights of the accused.").

A stage of a criminal prosecution is a "critical stage", entitling a defendant to assistance of counsel, if it presents the possibility of prejudice to the defendant. State v. Harell, 80 Wn.App. 802, 804, 911 P.2d 1034 (1996). (citing Garrison v. Phay, 75 Wn.2d 98, 102, 449 P.2d 92 (1968)).

Once a charge has been filed, the criminal discovery rule (CrR 4.7) rather than the search and seizure rule (CrR 2.3) should be utilized. State v. Kalakosky, 121 Wn.2d 525, 533, 852 P.2d 1064 (1993).

No provision was made in the search warrant to protect privileged information in Mr. Amos' jail cell, despite the known fact Mr. Amos was represented by counsel; Exh. 7. In fact, the search warrant illegally and unlawfully ordered the search and seizure of any mail marked "Legal Mail." Exh. 7. This violated Mr. Amos' right to communicate in private with his counsel. RCW 5.60.060 (2)(a); State v. Perrow, 156 Wn. App. 322, 231 P.3d 853 (2010); State v. Cory, 62 Wn.2d 371, 373-74, 382 P.2d 1019 (1963) ("Even 'high motives and zeal for law enforcement cannot justify spying upon and intrusion into the relationship between a person accused of crime and his counsel.'").

The following morning (June 18, 2014), Mr. Haggerty and Detective Chad Withrow #324, executed the search warrant on Mr. Amos' jail cell. Mr. Amos advised them that his jail cell contained confidential communications and other legal materials protected under attorney-client privileges. However, Mr. Haggerty did not care and stated "I have a search warrant to take all your legal work". This was confirmed by jail officer J. Engle, who was present during the warrant search.

While in Mr. Amos' jail cell, both Mr. Haggerty and Mr. Withrow read threw all of Mr. Amos' privileged communications and other legal materials. This included a letter clearly marked "Confidential Legal Mail" from Mr. Amos' prior defense counsel, Chris Baum, regarding prior conversations they had about state witness Jennifer Lantau.

All of Mr. Amos' privileged communications and legal materials were placed in a clear plastic

garbage bag and seized. This included Mr. Amos' complete case discovery, notes, and witness questions prepared at his attorney's behest. Mr. Haggerty did not properly inventory these items on the search warrant return, only writing "Legal Mail", Exh. 8

Instead of securing the seized privileged communications and legal materials into the evidence locker at the Centralia Police Department, Mr. Haggerty chose to take them straight to DPA Halstead's office to share what he seized from Mr. Amos' jail cell.

This was confirmed by PA Eric Esienburg on court record.

Mr. Amos' defense counsel attempted to view the seized items at the Centralia Police Department and was denied access by the Police Department and DPA Halstead.

Superior Court Judge Brosey questioned Mr. Amos' defense counsel, DPA Halstead, and PA Esienburg, on court records with regard to the intrusion and ordered an in camera review of the seized privileged communications and legal materials weeks after the intrusion. The in camera review was done by Judge Nelson Hunt in his chambers.

The in camera review of the seized privileged communications and legal materials did not remedy the state's illegal and unlawful intrusion or the prejudice it caused Mr. Amos because the privileged communications and legal materials were already read by Mr. Haggerty and Mr. Withrow in Mr. Amos' jail cell the day of the seizure. Furthermore, they were shared with DPA Halstead the same day in his office, and in both of their possession for weeks prior to the in camera review order.

Although prejudice is presumed in cases involving the State's purposeful intrusion into a defendant's attorney-client privileges, the prejudicial effect of Mr. Haggerty and DPA Halstead's illegal and unlawful intrusion is evident.

Mr. Amos was unable to assist his defense counsel with preparing his defense, after it was Mr. Blair who requested Mr. Amos write case notes and prepare witness questions. Mr. Amos was left with nothing to aid counsel.

In the confidential legal mail from prior defense counsel, Chris Baum, Mr. Baum communicated face to face conversations he had with Mr. Amos in his letter, regarding how Mr. Amos and State's witness Jennifer Lantau were using fake names to communicate with each other for months while Mr. Amos was awaiting trial. The fact that Mr. Haggerty and DPA Halstead became privy to this information destroyed any defense Mr. Amos had in his trial.

For these reasons, Mr. Amos was denied his right to counsel, a fair trial, and left him no other option but to negotiate the best possible plea deal he could and plead guilty.

Mr. Amos' convictions should be dismissed with prejudice, without regard to the plea agreement or waivers involved. This court should adopt the holding in State v. Perrow, 156 Wn. App. 322, 231 P.3d 853 (2010) (Holding that the written materials prepared by the defendant at his attorney's behest, seized by the detective, and forwarded to the Prosecuting Attorney's office were protected by the attorney-client privilege and that dismissal of the prosecution is the sole adequate remedy for the intrusion, RCW 5.60.060 (2)(a)).

## GROUND TWO

THE TRIAL COURT ERRED IN REFUSING TO CORRECT AMOS' VOID JUDGMENT AND SENTENCE IN EXCESS OF STATUTORY AUTHORITY. THIS VIOLATES AMOS' RIGHT TO DUE PROCESS UNDER THE 5<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENTS OF THE U.S. CONSTITUTION AND ARTICLE I, SECTION 3 OF THE WASHINGTON CONSTITUTION.

There is no question that Mr. Amos was sentenced in excess of statutory authority, as DOC initially assigned the error. Exh. 1. DPA Halstead attempted to correct the error with an Order Amending Judgment and Sentence. Exh. 2. However, that order was vacated and Mr. Amos' original J&S was imposed despite the sentencing error. Exh. 3.

The trial court has no authority to disregard Mr. Amos' erroneous sentence. "When a sentence has been imposed for which there is no authority in law, the trial court has the power and duty to correct the erroneous sentence, when the error is discovered." In re Pers. Restraint of Earle, 93 Wn.2d 31, 604 P.2d 1293 (1980).

Mr. Amos' total term of confinement for 144 months DOC includes a 120 month sentence for felony counts and two consecutive 12 month sentences for gross misdemeanor counts 5 and 6. Exh. 5.

This exceeds statutory authority as RCW 9A.20.021 (2) and RCW 9A.92.020 require gross misdemeanors to be served in the county jail. State v. Besio, 80 Wn. App. 426, 907 P.2d 1220

(1995) has upheld this and is controlling.

"where the law provides a place of imprisonment, the court cannot direct a different place, and if it does so, the sentence is void." State v. Linnemyer, 54 Wn. App. 767, 770, 776 P.2d 151 (1989) (quoting State v. Christopher, 20 Wn. App. 755, 763, 583 P.2d 638 (1978)).

Mr. Amos' plea agreement does not prevent the court from correcting the sentence in excess of statutory authority. "The actual sentence imposed pursuant to a plea bargain must be statutorily authorized...." In re Moore, 116 Wn.2d 30, 38, 803 P.2d 300 (1991). "The court has granted relief to personal restraint petitioners in the form of resentencing within statutory authority where sentence in excess of that authority had been imposed, without regard to plea agreements involved." In re Pers. Restraint of Goodwin, 146 Wn.2d 861, 877, 40 P.3d 1176 (2001). "The court has also recognized, on direct appeal, that the erroneous portion of a sentence in excess of statutory authority must be reversed, and a plea agreement to the unlawful sentence does not bind the defendant." Id.

Mr. Amos must be resentenced to 120 months DOC and the consecutive gross misdemeanor sentences, counts 5 and 6, should run concurrent as they cannot run consecutive with Mr. Amos' felony DOC sentence.

"Correcting an erroneous sentence in excess of statutory authority does not affect the finality of that portion of the judgment and sentence that was correct and valid when imposed. Goodwin, at 877.

### GROUND THREE

THE PROSECUTING ATTORNEY BREACHED AMOS' PLEA AGREEMENT AT SENTENCING AND WHEN AMENDING AMOS' JUDGMENT AND SENTENCE. THIS VIOLATES AMOS' RIGHT TO DUE PROCESS UNDER THE 5<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENTS OF THE US CONSTITUTION AND ARTICLE I, SECTION 3 OF THE WASHINGTON CONSTITUTION.

Mr. Amos' plea agreement was based on an agreed 144 month DOC sentence. This was made clear in Mr. Amos' Statement of Defendant on Plea of Guilty and when the Court accepted his guilty plea.

"THE COURT: ... The recommendation that's going to be made here are 120 months on felonies, 24 months on gross misdemeanors, consecutive for a total of 144 month DOC. That's 12 years." RP 18 (7/31/14), Exh. 6.

Mr. Amos is entitled to rely on the plea agreement as soon as the court accepts the plea. *In re Hedges*, 156 Wn. App. 411, 419, 233 P.3d 566 (2010)

It was not until Mr. Amos' sentencing, did DPA Halstead indicate that DOC may not want to house Mr. Amos on his consecutive gross misdemeanor sentences and asked the court to apply Mr. Amos' jail credits to his gross misdemeanor sentence, in the event DOC returned him back to the jail. RP 5 (8/20/14). This breached Mr. Amos' plea agreement.

Again, after DOC emailed DPA Halstead, asking him to remove the two 12 month gross misdemeanor terms from the felony J&S,

DPA Halstead breached Mr. Amos' plea agreement by amending his J&S to include a county jail term of confinement. Exh. 1 and 2.

Mr. Amos' sentence, although for 144 months, was based on the agreement that it would be a DOC sentence. That was made clear by the sentencing court, "The name of the game is when Mr. Amos is done with DOC, Mr. Amos wants to be done, period." RP 5 (8/20/14). The fact that the 144 month DOC sentence was in excess of statutory authority does not allow DPA Halstead to escape the promised recommendation for a DOC sentence. "The actual sentence imposed pursuant to a plea bargain must be statutorily authorized...." In re Moore, 116 Wn.2d 30, 38, 308 P.2d 300 (1991); "a plea agreement to the unlawful sentence does not bind the defendant," In re Goodwin, 146 Wn.2d 861, 877, 40 P.3d 1176 (2001). Lastly, "correcting the erroneous sentence in excess of statutory authority does not affect the finality of the portion of the judgment and sentence that was correct and valid when imposed." Id.

Mr. Amos is entitled to both the benefit of his plea agreement, a DOC sentence, and a lawful sentence. The correct and valid portion of Mr. Amos' J&S is 120 months DOC. DPA Halstead is bound to that, as that is what the law allows Mr. Amos to serve in DOC.

Specific performance binds DPA Halstead to his promise for a DOC sentence. State v. Barber, 170 Wn.2d 854, 873-74, 248 P.3d 494 (2011). Mr. Amos must be resentenced to 120 months DOC.

#### GROUND FOUR

THE TRIAL COURT REFUSED AMOS' ORDER OF INDIGENCY AND TOLD AMOS' TO FILE A PERSONAL RESTRAINT PETITION. THIS VIOLATES AMOS' RIGHT TO APPEAL AND DUE PROCESS UNDER THE 5<sup>TH</sup> AND 6<sup>TH</sup> AMENDMENTS OF THE U.S. CONSTITUTION AND ARTICLE I, SECTIONS 3 AND 22 OF THE WASHINGTON CONSTITUTION.

Mr. Amos filed a timely Notice of Appeal after becoming aware that his J&S was amended without being notified or the opportunity to be present. COA's No. 46940-5-II.

Mr. Amos filed a motion requesting an order of Indigency in the trial court, so he could pursue the appeal as he does not have the means to pay for appellate review. This was done at the request of the Court of Appeals.

Mr. Amos was transferred back to the trial court and Judge Brosey refused to hear Mr. Amos motion for Order of Indigency. Instead, Judge Brosey vacated the amended J&S and told Mr. Amos to file a PRP within one year if he wanted to correct the erroneous sentence imposed in excess of statutory authority.

For these reasons, Mr. Amos was denied his right to appeal and due process. Consider Mr. Amos' personal Restraint Petition as a late Notice of appeal and appoint appellate counsel.

### 3.) CITATIONS TO COURT DOCUMENTS.

Mr. Amos needs the following Lewis County Superior Court and District Court documents and minutes, to support his grounds for relief and assist this court in making a decision....

1.) Lewis County District Court, case No. 13A7516, Search warrant, Search warrant affidavit of Adam Haggerty #328, Return of Search warrant, and hearing minutes.

2.) Lewis County Superior Court, cause No. 13-1-00818-6 and No. 14-1-00352-2, court hearing minutes and audio for every court appearance Mr. Amos was present at between June 18, 2014 and August 20, 2014. These are required to show Judge Brose's inquiry into the illegal and unlawful intrusion into Mr. Amos' attorney-client privileges.

3.) Lewis County Superior Court, Cause No. 13-1-00818-6 case summary index numbers:

78A	Hearing minutes
82	Motion hearing minutes
86	Motion hearing minutes
89	Motion hearing minutes
90	Guilty Plea hearing minutes
93	Statement of Defendant on Plea of Guilty
95	Docket hearing minutes
96	Sentencing hearing minutes

- 97 Amended Information
- 98 Prior Record
- 99 Waiver
- 100 Felony Judgment and Sentence
- 101 Warrant of Commitment
- 105 Order Amending J & S
- 106 Notice of Appeal
- 107 Transmittal Letter
- 108 Perfection Notice from CoA's
- 109 Transport Order
- 110 Hearing minutes
- 111 motion
- 112 Letter
- 114 Motion Hearing and minutes
- 115 Response
- 116 Order Vacating J & S
- 117 Notice of Hearing
- 118 Court Hearing minutes
- 119 Order
- 120 motion

4.) Lewis County Superior Court, cause No. 14-1-00352-2, all documents, orders, and minutes. Mr. Amos needs these to prove his intrusion claim.

4.) STATEMENT OF FINANCES.

~~\_\_\_\_\_~~  
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In re: PERSONAL RESTRAINT  
PETITION OF:  
FORREST EUGENE AMOS,  
Petitioner,

~~\_\_\_\_\_~~

~~\_\_\_\_\_~~

)  
)  
) NO.  
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)  
)  
)

DECLARATION OF INDIGENCY

I, Forrest Eugene Amos, cannot afford to pay any or all  
the above-entitled action.

1. I can afford the following amounts towards the expense of review:

NONE, 0 \$  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. I request that the following expenses be waived or be provided at public  
expense:

- ☒ Waiver of the filing fee
- ☒ Preparation of verbatim report of proceedings
- ☒ Costs for reproduction of Clerk's Papers
- ☒ Appointment of Counsel

DECLARATION OF INDIGENCY  
~~\_\_\_\_\_~~

3. I believe the following parts of the record are necessary for review:

- ☒ Verbatim report of proceedings
- ☒ Clerk's Papers
- ☒ Transmittal of exhibits

4. I believe to the best of my knowledge that ~~the following parts of the record are necessary for review:~~ My PRP IS TRUE AND CORRECT.

5. The request for appellate court review in this case is brought in good faith.

6. I am \_\_\_ am not ☒ employed. My salary or wages amount to \$ 0 per month. My employer is: NONE  
Name  
Address

7. I do \_\_\_ do not ☒ have any checking or savings accounts. The amount in all accounts is \$ 0.

8. In the past 12 months, I did ☒ did not \_\_\_ receive any interest, dividends, rental payments, or other money. The total amount of such money I received was \$ 200 approx. \*Attached is my prison account statement.

9. List all real estate, stocks, bonds, notes, and other property you own or in which you have interest. Do not list household furniture, furnishings, and clothing which you or your family own.

Item	Value	Amount Owed
<u>NONE.</u>		

DECLARATION OF INDIGENCY

- (in process of divorce)
10. I am X am not        married. My spouse is        is not        employed. His or her salary or wages amount to \$                      per month. He or she owns the following property not already described above:

NONE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. These people need me to support them:

Name and Address	Relationship	Age
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NONE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. I owe the following bills:

Name of Creditor	Address	Amount Owed
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NONE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Aberdeen, WA [City and State] on 1-3-16 [Date].

Forrest Eugene Amos

SIGNATURE

Forrest Eugene Amos

PRINT/TYPE NAME

12/02/2015

Department of Corrections

PAGE: 01 OF 01

KFALLISON

STAFFORD CREEK CORRECTIONS CENTER

OIRPLRAR

10.2.1.18

**PLRA IN FORMA PAUPERIS STATUS REPORT  
FOR DEFINED PERIOD 05/31/2015 TO 11/30/2015**

DOC# :	0000809903	NAME :	AMOS FORREST	ADMIT DATE :	08/22/2014
DOB :	05/16/1983			ADMIT TIME :	12:27
	<b>AVERAGE MONTHLY RECEIPTS</b>	<b>20% OF RECEIPTS</b>	<b>AVERAGE SPENDABLE BALANCE</b>	<b>20% OF SPENDABLE</b>	
	36.24	7.25	5.25	1.05	

STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS  
OFFICE OF CORRECTIONAL OPERATIONS  
STAFFORD CREEK CORRECTION CENTER  
CERTIFIED BY: *[Signature]*

5.) REQUEST FOR RELIEF.

Mr. Amos requests the following relief:

Grant Mr. Amos' Personal Restraint Petition, and:

1.) Adopt the holding in State v. Perrow, 156 Wn. App. 322, 231 P.3d 853 (2010) and dismiss Mr. Amos' case with prejudice as that is the "sole adequate remedy for the intrusion. RCW 5.60.060 (2)(a)." Id.

2.) In the alternative, vacate the erroneous portion of Mr. Amos' sentence in excess of statutory authority without regard to the plea agreement involved and resentence Mr. Amos to the remaining valid portion of his J & S, 120 months. Dismiss and/or run Concurrent counts 5 and 6 with the remaining counts for 120 months DOC.

3.) Specifically enforce the plea agreement and resentence Mr. Amos to the agreed 120 month DOC Sentence as the remaining portion of the plea agreement in excess of statutory authority is not binding on Mr. Amos.

4.) Consider Mr. Amos' PRP as a late Notice of Appeal, allow Mr. Amos to file a direct appeal applying those standards of review, and appoint appellate counsel.

6.) OATH.

Oath of Petitioner

THE STATE OF WASHINGTON )  
 ) ss  
COUNTY OF GRAYS HARBOR )

After being first duly sworn, on oath, I depose and say, that I am the petitioner, that I have read the petition. I know its contents, and believe the petition is true. I also declare this under penalty of perjury under the laws of Washington State.

1-3-2016  
Date

Forrest Eugene Amos  
Print name  
Forrest E Amos  
Signature

SUBSCRIBED AND SWORN, to me on this       , day of       , 20       

N/A  
Notary Public in and for the State of Washington

My commission expires: N/A

\* no Notary needed as I declare under penalty of perjury under the laws of Washington State

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EXHIBIT 1

**Johnson, Julie (DOC)**

---

**From:** Johnson, Julie (DOC)  
**Sent:** Thursday, August 28, 2014 2:05 PM  
**To:** jonathan.meyer@lewiscountywa.gov  
**Cc:** dblairattorney@aol.com  
**Subject:** AMOS, FORREST #809903

ATTN. William Halstead:

Amos was received at the Washington Corrections Center on 08/22/2014 from Lewis County on CSE#13-1-00818-6. CT. V for the crime of Attempted Possession of Marijuana w/ Intent to Manufacture or Deliver and CT. VI for the crime of Attempted Forgery are gross misdemeanors and per RCW 9A.20.021(2) and RCW 9.92.020 gross misdemeanors must be served in the county jail. This was also upheld in the Court of Appeals of the State of Washington (Besio). Please remove the confinement time of 12 months on both CT(s) V and VI from the felony Judgment and Sentence and correct the total confinement time to 120 months. The DOC will place a detainer returning Amos to the Lewis county jail upon completion of the prison sentence under this cause number.

Thank you for your help with this matter.

*Julie Johnson,  
Correctional Records Technician,  
Washington Correction Center  
P.O. Box 900 MS: WS-01  
Shelton, WA 98584  
Phone: (360) 427-4631  
Fax: (360) 427-4581*

"People may hear your words, but they feel your attitude".

~John C. Maxwell

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EXHIBIT 2

809903

SUPERIOR COURT  
LEWIS COUNTY, WASH  
REC'D & FILED

2014 OCT 31 AM 10:45

KATHY BRACK, CLERK

BY \_\_\_\_\_  
DEPUTY

CHEHALIS

NOV 3 7 2014

RECEIVED

IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR LEWIS COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

FORREST EUGENE AMOS

Defendant.

NO. 13-1-00818-6

ORDER AMENDING JUDGMENT  
AND SENTENCE

IT IS HEREBY ORDERED that the Judgment and Sentence entered on August 20, 2014, in the above-entitled cause is still in full effect but amended as follows:

1. Paragraph 4.1 shall read as follows:

**4.1 Confinement.** The court sentences the defendant to total confinement as follows:

(a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

60 months on Count II 57 months on Count III

24 months on Count IV 120 months on Count VII

120 months on Count VII 120 months on Count XII

120 months on Count XIII 120 months on Count XIV

120 months on Count XV 120 months on Count XVI

364 days with 0 suspended on Count V

364 days with 0 suspended on Count VI

ORDER AMENDING JUDGMENT  
AND SENTENCE

1

LEWIS COUNTY  
PROSECUTING ATTORNEY  
345 W. Main Street, 2nd Floor  
Chehalis, WA 98532

Amos, Kinke et al  
360-740-1240 (Voice) 360-740-1491 (Fax)  
01050019

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EXHIBIT 3

Received & Filed  
LEWIS COUNTY, WASH  
Superior Court

JAN 08 2015

By Kathy A. Brack, Clerk  
Deputy

tw  
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IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR LEWIS COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

FORREST AMOS  
Defendant.

NO.

13-1-818-5

Order VACATING ORDER  
AMENDING J.S.

On motion of the \_\_\_\_\_;  
By stipulation of the parties;

IT IS HEREBY ORDERED:

THE ORDER AMENDING JUDGMENT AND SENTENCE  
IS VACATED (ENTERED 10-30-14)

DATED this 8<sup>th</sup> day of JAN., 20 15

[Signature]  
SUPERIOR COURT JUDGE

APPROVED BY:

PRESENTED BY:

[Signature]  
Deputy Prosecuting Attorney  
WSBA # 23838

[Signature]  
Attorney for Defendant  
WSBA # \_\_\_\_\_

Distribution: White-Clerk    Canary-Defendant    Pink-SO Records    Gold-Prosecutor  
Blank Order    1

LEWIS COUNTY  
PROSECUTING ATTORNEY

345 W. Main Street, 2<sup>nd</sup> Floor  
Chehalis, WA 98532  
360-740-1119 (Voice) 360-740-1197 (Fax)  
01050018

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EXHIBIT 4

**Inmate: AMOS, Forrest Eugene (809903)**

Gender: Male	DOB: 05/16/1983	Age: 31	Category: Regular Inmate	Body Status: Active Inmate
RLC: HV	Wrap-Around: No	Comm. Concern: No	Custody Level: Minimum 3 - Long Term Minimum	Location: SCCC — H3 / H3119U
ERD: 11/29/2021	CC/CCO: Bodwell, Benjamin B			

**Chronological Event****Location and Author Information**

Offender's Assigned Location At Occurrence:	Living Unit:	Bed:	Date Created:	Time Created:
SCCC	H3	H3119U	01/29/2015	02:48
Author:	Author's Assigned Location At Occurrence:	Date Occurred:	Time Occurred: (HH:MM)	
Edwards, Christina A		01/29/2015		

**Chronological Event Types****Records Issues****Text**

INTAKE: Completed this date. Amended J&S on Lewis Co CSE AG/AH 131008186 done on 10/30/14 was vacated on 1/08/15. Prosecutor from Lewis Co said original J&S from 8/20/14 is to be followed. Counts 5 & 6- (gross misdemeanor counts) were added as split AI cause as they are consecutive to each other and consecutive to AG/AH. Misdemeanors (counts 5 & 6) from felony J&S were removed from warrant detainer screen as P is now serving these misdemeanors in prison. Offender score and 5990 flags were set on counts 7,8,12,13,14,15, and 16. Conditions updated on AH cause. W&W were clear. SCCC Records.

**Appended Text :** by Pamela Iverson, on 03/19/2015 02:51 PM

Per offender request reviewed this Order Vacating Prior Amendment. Original J & S orders overall sentence of 120 months to be served on the felony portion of sentence + 728 days to be served on gross misdemeanor portion of sentence with credit for time served of 264 days (262 days + 2 days date of sentence to date of arrival) to be applied towards Misd. count 5. This was all ordered to be served in prison. Order Amending dated 10/30/14 came changing it from 120 months in prison and the 728 days to be served in the county jail with credits still being applied to count 5. Second Order Amending dated 01/08/15 Vacated the Amendment dated 10/30/14. Sentence goes back to original J & S. Jail credits revised to 264 days per J & S and 131 days per cert. ERD revised from 11/28/21 to 11/29/21. Memo sent to offender explaining this. SCCC Records.

Amos v. Kinne, et al.  
01050039

3/19/2015

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EXHIBIT 5

Received & Filed  
LEWIS COUNTY, WASH  
Superior Court

AUG 20 2014

By Katny A. Brack, Clerk *ST*  
Deputy

**ORIGINAL**

Superior Court of Washington  
in and for Lewis County

STATE OF WASHINGTON, Plaintiff,

No. 13-1-00818-6

vs.

FORREST EUGENE AMOS, Defendant.

DOB: 05/16/1983

PCN:

SID: WA18562708

Felony Judgment and Sentence --  
Prison

(FJS)

[X] Clerk's Action Required, para 2.1, 4.1, 4.3, 5.2,  
5.3, 5.5 and 5.7

[ ] Defendant Used Motor Vehicle

**I. Hearing**

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the (deputy) prosecuting attorney were present.

**II. Findings**

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon

☒ guilty plea 07-31-14 ☐ jury-verdict (date) \_\_\_\_\_ ☐ bench trial (date) \_\_\_\_\_

Count	Crime	RCW (w/subsection)	Class	Date of Crime
II.	Tampering With a Witness	9A.72.120	C	5-1-13 to 12-2-13
III.	Computer Trespass in the First Degree	9A.52.110	C	5-1-13 to 12-2-13
IV.	Possession of Marijuana With Intent to Manufacture or Deliver	69.50.401(2)(c)	C	4-1-13 to 4-30-13
V.	Attempted Possession of Marijuana With Intent to Manufacture or Deliver	69.50.401(2)(c) & 9A.28.020(1)	GM	4-1-13 to 4-30-13
VI.	Attempted Forgery	9A.60.020(1) & 9A.28.020(1)	GM	4-1-13 to 4-30-13
VII.	Possession of a Controlled Substance With Intent to Manufacture or Deliver	69.50.401(2)(a)	B	1-1-13 to 5-21-13
VIII.	Delivery of a Controlled Substance	69.50.401(2)(c)	B	1-1-13 to 5-21-13

Felony Judgment and Sentence (FJS) (Prison)(Nonsex  
Offender)  
(RCW 9.94A.500, .505)(WPF CR 84.0400 (07/2013))

Page 1 of 13

LEWIS COUNTY  
PROSECUTING ATTORNEY  
345 W. Main Street, 2<sup>nd</sup> Floor  
Chehalis, WA 98532  
360-740-1240 (Voice) 360-740-1497 (Fax)

X. Introducing Contraband in the Third Degree	9A.76.160	GM	1-1-13 to 5-21-13
XI. Attempted Theft in the Second Degree	9A.56.040(1) & 9A.28.020(1)	GM	1-1-12 to 12-31-12
XII. Possession of a Controlled Substance With Intent to Manufacture or Deliver	69.50.401(2)(a)	B	1-1-12 to 12-31-12
XIII. Delivery of a Controlled Substance	69.50.401(2)(c)	B	1-1-12 to 12-31-12
XIV. Delivery of a Controlled Substance	69.50.401(2)(c)	B	1-1-12 to 12-31-12
XV. Possession of a Controlled Substance With Intent to Manufacture or Deliver	69.50.401(2)(a)	B	4-20-11 to 12-31-12
XVI. Delivery of a Controlled Substance	69.50.401(2)(c)	B	4-20-11 to 12-31-12

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

☐ Additional current offenses are attached in Appendix 2.1a.

The jury returned a special verdict or the court made a special finding with regard to the following:

**GV** ☐ For the crime(s) charged in Count \_\_\_\_\_, **domestic violence** was pled and proved. RCW 10.99.020.

☐ The defendant used a **firearm** in the commission of the offense in Count \_\_\_\_\_. RCW 9.94A.825, 9.94A.533.

☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in Count \_\_\_\_\_. RCW 9.94A.825, 9.94A.533.

☐ Count \_\_\_\_\_, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

☐ In count \_\_\_\_\_ the defendant committed a robbery of a pharmacy as defined in RCW 18.64.011(21), RCW 9.94A.\_\_\_\_\_.

☐ The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count \_\_\_\_\_. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.

☐ Count \_\_\_\_\_ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. RCW 9.94A.833.

☐ Count \_\_\_\_\_ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.829.

- ☐ The defendant committed ☐ **vehicular homicide** ☐ **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.

**GY** ☐ In Count \_\_\_\_\_, the defendant had (number of) \_\_\_\_\_ **passenger(s) under the age of 16** in the vehicle. RCW 9.94A.533.

- ☐ Count \_\_\_\_\_ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.

- ☐ In Count \_\_\_\_\_ the defendant has been convicted of **assaulting a law enforcement officer** or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.

- ☐ Count \_\_\_\_\_ is a felony in the commission of which the defendant used a **motor vehicle**. RCW 9.94A.285.

- ☐ The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.

- ☐ In Count \_\_\_\_\_, assault in the 1<sup>st</sup> degree (RCW 9A.36.011) or assault of a child in the 1<sup>st</sup> degree (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of 5 years (RCW 9.94A.540).

- ☐ Counts N/A encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.

- ☐ **Other current convictions listed under different cause numbers used in calculating the offender score are** (list offense and cause number):

	<i>Crime</i>	<i>Cause Number</i>	<i>Court (county &amp; state)</i>	<i>DV*Yes</i>
1.	None Known			
2.				

\* DV: Domestic Violence was pled and proved.

- ☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

## 2.2 Criminal History (RCW 9.94A.525):

	<i>Crime</i>	<i>Date of Crime</i>	<i>Date Of Sentence</i>	<i>Sentencing Court (County &amp; State)</i>	<i>A or J Adult, Juv.</i>	<i>Type of Crime</i>	<i>DV* Yes</i>
1	VUCSA – Poss.	10-06-2011	01-28-2013	Lewis WA	A	NV	
2	Assault 2	02-26-2004	06-20-2005	Walla Walla, WA	A	V	
3	Burglary 1	01-16-2000	04-25-2000	Lewis WA	A	V	

Felony Judgment and Sentence (FJS) (Prison)(Nonsex Offender)  
(RCW 9.94A.500, .505)(WPF CR 84.0400 (07/2013))

Page 3 of 13

LEWIS COUNTY  
PROSECUTING ATTORNEY  
345 W. Main Street, 2<sup>nd</sup> Floor  
Chehalis, WA 98532  
360-740-1240 (Voice) 360-740-1497 (Fax)

4	Robbery 1	01-16-2000	04-25-2000	Lewis WA	A	V	
5	Assault 2	01-16-2000	04-25-2000	Lewis WA	A	V	
6	Theft firearm	01-16-2000	04-25-2000	Lewis WA	A	NV	
7	UPF 1	01-16-2000	04-25-2000	Lewis WA	A	NV	
8	Burglary 2	02-25-1999	03-02-1999	Lewis WA	J	NV	
9	Malicious Mischief 2	05-24-1998	09-01-1998	Lewis WA	J	NV	
10	Burglary 2	05-02-1997	05-16-1997	Lewis WA	J	NV	
11	PSP 2	05-02-1997	05-16-1997	Lewis WA	J	NV	

\* DV: Domestic Violence was pled and proved.

☐ Additional criminal history is attached in Appendix 2.2.

☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

☐ The prior convictions listed as number(s) \_\_\_\_\_, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

☐ The prior convictions listed as number(s) \_\_\_\_\_, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

### 2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range	Plus Enhancements	Total Standard Range (including enhancements)	Maximum Term
II	9+	III	51-60 months		51-60 months	10 years
III	9+	II	43-57 months		43-57 months	5 years
IV	9+	I	12+-24 months		12+-24 months	5 years
V	N/A	GM	0-364 days		0-364 days	364 days
VI	N/A	GM	0-364 days		0-364 days	364 days
VII	9+	II	60-120 months		60-120 months	10 years
VIII	9+	II	60-120 months		60-120 months	10 years
X	N/A	M	0-90 days		0-90 days	90 days
XI	N/A	GM	0-364 days		0-364 days	364 days

XII	9+	II	60-120 months		60-120 months	10 years
XIII	9+	II	60-120 months		60-120 months	10 years
XIV	9+	II	60-120 months		60-120 months	10 years
XV	9+	II	60-120 months		60-120 months	10 years
XVI	9+	II	60-120 months		60-120 months	10 years

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (RPh) Robbery of a pharmacy, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement with firearm, RCW 9.94A.533(12), (P16) Passenger(s) under age 16.

☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended **sentencing agreements or plea agreements** are ☐ attached ☐ as follows:

2.4 ☐ **Exceptional Sentence.** The court finds substantial and compelling reasons that justify an exceptional sentence:

☐ below the standard range for Count(s) \_\_\_\_\_.

☐ above the standard range for Count(s) \_\_\_\_\_.

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.

☐ within the standard range for Count(s) \_\_\_\_\_, but served consecutively to Count(s) \_\_\_\_\_.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 **Legal Financial Obligations/Restitution.** The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. (RCW 10.01.160). The court makes the following specific findings:

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): \_\_\_\_\_.

☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

☐ (Name of agency) \_\_\_\_\_'s costs for its emergency response are reasonable. RCW 38.52.430 (effective August 1, 2012).

2.6 ☐ **Felony Firearm Offender Registration.** The defendant committed a felony firearm offense as defined in RCW 9.41.010.

☐ The court considered the following factors:

☐ the defendant's criminal history.

☐ whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.

☐ evidence of the defendant's propensity for violence that would likely endanger persons.

☐ other: \_\_\_\_\_

☐ The court decided the defendant ☐ should ☐ should not register as a felony firearm offender.

### III. Judgment

3.1 The defendant is *guilty* of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☒ The court *dismisses* Counts I and IX in the charging document.

### IV. Sentence and Order

*It is ordered:*

4.1 **Confinement.** The court sentences the defendant to total confinement as follows:

(a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

<u>60</u> months on Count <u>II</u>	<u>57</u> months on Count <u>III</u>
<u>24</u> months on Count <u>IV</u>	<u>364 days</u> <sup>w/ 0 suspended</sup> months on Count <u>V</u>
<u>364 days</u> <sup>w/ 0 suspended</sup> months on Count <u>VI</u>	<u>120</u> months on Count <u>VII</u>
<u>120</u> months on Count <u>VIII</u>	<u>90 days</u> months on Count <u>X</u>
<u>364 days</u> <sup>w/ 0 suspended</sup> months on Count <u>XI</u>	<u>120</u> months on Count <u>XII</u>
<u>120</u> months on Count <u>XIII</u>	<u>120</u> months on Count <u>XIV</u>
<u>120</u> months on Count <u>XV</u>	<u>120</u> months on Count <u>XVI</u>

☐ The confinement time on Count(s) \_\_\_\_\_ contain(s) a mandatory minimum term of \_\_\_\_\_.

- ☐ The confinement time on Count \_\_\_\_\_ includes \_\_\_\_\_  
months as enhancement for ☐ firearm ☐ deadly weapon ☐ VUCSA in a protected zone  
☐ manufacture of methamphetamine with juvenile present.

Actual number of months of total confinement ordered is: 144 months 120 + 12 + 12 = 144 mo.

All counts shall be served concurrently, EXCEPT COUNT 5 WILL RUN CONSECUTIVE TO ALL COUNTS AND COUNT 6 WILL RUN CONSECUTIVE TO ALL COUNTS AND CONSECUTIVE TO COUNT 5.

This sentence shall run consecutively with the sentence in the following cause number(s) (see RCW 9.94A.589(3)): \_\_\_\_\_

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

- (b) Credit for Time Served. The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served. Credit for time served is: 262 days. -> credit to be applied to Count 5.
- (c) ☐ Work Ethic Program. RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of confinement.

**4.2 Community Custody.** (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for:

Count(s) \_\_\_\_\_ 36 months for Serious Violent Offenses

Count(s) \_\_\_\_\_ 18 months for Violent Offenses

Count(s) 4, 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

Note: combined term of confinement and community custody for any particular offense cannot exceed the statutory maximum. RCW 9.94A.701.

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The

defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The court orders that during the period of supervision the defendant shall:

- ☐ consume no alcohol.
- ☐ have no contact with: \_\_\_\_\_.
- ☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit: \_\_\_\_\_
- ☐ not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age.
- ☐ participate in the following crime-related treatment or counseling services: \_\_\_\_\_
- ☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse  
☐ mental health ☐ anger management, and fully comply with all recommended treatment.
- ☐ comply with the following crime-related prohibitions: \_\_\_\_\_
- ☐ Other conditions: \_\_\_\_\_

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

**4.3 Legal Financial Obligations:** The defendant shall pay to the clerk of this court:

JASS CODE

PCV	\$ 500	Victim assessment	RCW 7.68.035
PDV	\$	Domestic Violence assessment	RCW 10.99.080
CRC	\$	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee \$ 200.00	FRC
		Witness costs \$	WFR
		Sheriff service fees \$ 258.70	SFR/SFS/SFW/WRF
		Jury demand fee \$	JFR
		Extradition costs \$	EXT
		Other \$	
PUB	\$ 13,822. <sup>50</sup>	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$	Court appointed defense expert and other defense costs	RCW 9.94A.760

FCM/MTH \$ 3,000 Fine RCW 9A.20.021; ☒ VUCSA chapter 69.50 RCW, ☐ VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/FCD \$ 500 Drug enforcement fund of Lewis County RCW 9.94A.760

NTF/SAD/SDI \$ \_\_\_\_\_ DUI fines, fees and assessments

CLF \$ 100 Crime lab fee ☐ suspended due to indigency RCW 43.43.690

\$ 100 DNA collection fee RCW 43.43.7541

FPV \$ \_\_\_\_\_ Specialized forest products RCW 76.48.140

\$ Ø Other fines or costs for: LEWIS COUNTY JAIL COSTS

DEF \$ \_\_\_\_\_ Emergency response costs (\$1000 maximum, \$2,500 max. effective Aug. 1,2012.) RCW 38.52.430 Agency: \_\_\_\_\_

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

RTN/RJN \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

(Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)

\$ \_\_\_\_\_ **Total** RCW 9.94A.760

☒ The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

☒ shall be set by the prosecutor.

☐ is scheduled for \_\_\_\_\_ (date).

☒ The defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_.

☐ **Restitution** Schedule attached.

☐ Restitution ordered above shall be paid jointly and severally with:

Name of other defendant      Cause Number      (Victim's name)      (Amount-\$)

RJN \_\_\_\_\_

☒ The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

☒ All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court

specifically sets forth the rate here: Not less than \$ 25 per month commencing immediately. RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

☐ The court orders the defendant to pay costs of incarceration at the rate of \$\_\_\_\_\_ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480.)

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

**4.4 DNA Testing.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

☐ **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

**4.5 No Contact:**

☐ The defendant shall not have contact with \_\_\_\_\_ (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until \_\_\_\_\_ (which does not exceed the maximum statutory sentence).

☐ The defendant is excluded or prohibited from coming within \_\_\_\_\_ (distance) of: ☐ \_\_\_\_\_ (name of protected person(s))'s ☐ home/ residence ☐ work place ☐ school ☐ (other location(s)) \_\_\_\_\_

\_\_\_\_\_, or

☐ other location: \_\_\_\_\_,

until \_\_\_\_\_ (which does not exceed the maximum statutory sentence).

☐ A separate Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Stalking No-Contact Order is filed concurrent with this Judgment and Sentence.

**4.6 Other:** \_\_\_\_\_

**4.7 Off-Limits Order.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: \_\_\_\_\_

**4.8 Exoneration:** The Court hereby exonerates any bail, bond and/or personal recognizance conditions.

## V. Notices and Signatures

- 5.1 Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 Community Custody Violation.**
- (a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633.
  - (b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.
- 5.5a Firearms.** You may not own, use or possess any firearm, and under federal law any firearm or ammunition, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. **You must immediately surrender any concealed pistol license.** (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.5b ☐ Felony Firearm Offender Registration.** The defendant is required to register as a felony firearm offender. The specific registration requirements are in the "Felony Firearm Offender Registration" attachment.
- 5.6 Reserved**

5.7 ☐ **Department of Licensing Notice:** The court finds that Count \_\_\_\_\_ is a felony in the commission of which a motor vehicle was used. **Clerk's Action**—The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.285. **Findings for DUI, Physical Control, Felony DUI or Physical Control, Vehicular Assault, or Vehicular Homicide (ACR information) (Check all that apply):**

☐ Within two hours after driving or being in physical control of a vehicle, the defendant had an alcohol concentration of breath or blood (BAC) of \_\_\_\_.

☐ No BAC test result.

☐ BAC Refused. The defendant refused to take a test offered pursuant to RCW 46.20.308.

☐ Drug Related. The defendant was under the influence of or affected by any drug.

☐ THC level was \_\_\_\_\_ within two hours after driving.

☐ Passenger under age 16. The defendant committed the offense while a passenger under the age of sixteen was in the vehicle.

Vehicle Info.: ☐ Commercial Veh. ☐ 16 Passenger Veh. ☐ Hazmat Veh.

5.8 Other: \_\_\_\_\_

Done in Open Court and in the presence of the defendant this date: 8/20/14

Judge/Print Name: \_\_\_\_\_

**Richard L. Brosey**  
Judge

William Halstead  
Deputy Prosecuting Attorney  
WSBA No. 23838  
Print Name: William Halstead

Don Blair  
Attorney for Defendant  
WSBA No. 24637  
Print Name: Don Blair

Forrest E. Amos  
Defendant  
Print Name: Forrest E. Amos

**Voting Rights Statement:** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: Forrest E. Amos

# VI. Identification of the Defendant

SID No.: WA18562708

Date of Birth: 05/16/1983

(If no SID complete a separate Applicant card  
(form FD-258) for State Patrol)

FBI No.: 498830NB6

Local ID No. \_\_\_\_\_

PCN No. \_\_\_\_\_

Other \_\_\_\_\_

Alias name, DOB: \_\_\_\_\_

## Race:

## Ethnicity:

## Sex:

☐ Asian/Pacific  
Islander

☐ Black/African-  
American

☒ Caucasian

☐ Hispanic

☒ Male

☐ Native American

☐

Other: \_\_\_\_\_

☒ Non-  
Hispanic

☐ Female

**Fingerprints:** I attest that I saw the defendant who appeared in court affix his or her fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk, \_\_\_\_\_

Dated: 8-20-14

The defendant's signature: \_\_\_\_\_

Left four fingers taken simultaneously

Left  
Thumb

Right  
Thumb

Right four fingers taken  
simultaneously



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EXHIBIT 6

JUL 31 2014

By Kathy A. Brack, Clerk *ST*  
Deputy

93

Superior Court of Washington  
For Lewis County

State of Washington

Plaintiff

vs.

FORREST AMOS

Defendant

No. 13-1-8186

Statement of Defendant on Plea of  
Guilty to Non-Sex Offense  
(Felony)  
(STDFG)

1. My true name is: FORREST AMOS

2. My age is: 31

3. The last level of education I completed was 11

4. I Have Been Informed and Fully Understand That:

(a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

(b) I am charged with: 3 Am Indecent - A counts not including  
The elements are: CT I, & CT IX -

5. I Understand I Have the Following Important Rights, and I Give Them Up by Pleading Guilty:

- FEW*
- (a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed;
  - (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
  - (c) The right at trial to hear and question the witnesses who testify against me;

6. {
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
  - (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty;
  - (f) The right to appeal a finding of guilt after a trial.

**In Considering the Consequences of My Guilty Plea, I Understand That:**

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a **Standard Sentence Range** as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1	SEE	Attacked	App A		
2					
3					

\*The sentencing enhancement codes are: (RPh) Robbery of a pharmacy, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude. The following enhancements will run consecutively to all other parts of my entire sentence, including other enhancements and other counts: (F) Firearm, (D) Other deadly weapon, (V) VUCSA in protected zone, (JP) Juvenile present, (VH) Veh. Hom, see RCW 46.61.520, (P16) Passenger(s) under age 16.

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment and any mandatory fines or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or

double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.

- (f) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the total period of confinement is more than 12 months, and if this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community custody. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community custody. The actual period of community custody may be longer than my earned early release period. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months, but only if the crime I have been convicted of falls into one of the offense types listed in the following chart. For the offense of failure to register as a sex offender, regardless of the length of confinement, the judge will sentence me for up to 12 months of community custody. If the total period of confinement ordered is more than 12 months, and if the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the term established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.729 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody term will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY TERM
Serious Violent Offenses	36 months
Violent Offenses	18 months
Crimes Against Persons as defined by RCW 9.94A.411(2)	12 months
★ Offenses under Chapter 69.50 or 69.52 RCW (not sentenced under RCW 9.94A.660)	12 months
Offenses involving the unlawful possession of a firearm where the offender is a criminal street gang member or associate	12 months

Certain sentencing alternatives may also include community custody.

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me, including additional conditions of community custody that may be imposed by the Department of Corrections. My failure to comply with these conditions will render me ineligible for

Δ STIPULATES THE COUNTS HE IS PLEADING GUILTY TO DO NOT  
CONSTITUTE SAME CRIMINAL CONDUCT

general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

(g)

The prosecuting attorney will make the following recommendation to the judge:  
120 months on FELONIES - 24 months on gross. misc. CHARGES  
144 mo DOC - AGLEED  
Dismissed CDITX  
B.S.M.S.S. 141-352-2  
CC  
AFK  
FINE  
NO OTHER FROM  
STEN. A. K. FLOW  
THS. TIME  
11-7/14

[ ] The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

Δ WAIVES RIGHTS TO FILE APPEALS  
AND PERM. REST. PETITIONS IN THIS MATTER

(h)

The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. I understand the following regarding exceptional sentences: THAT WE  
AWARE OF  
NOW.

- (i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.
- (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.
- (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.
- (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence.

- (i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- (j) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.
- (k) I will be ineligible to vote until that right is restored in a manner provided by law. If I am

registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.

- (l) Government assistance may be suspended during any period of confinement.
- (m) I will be required to have a biological sample collected for purposes of DNA identification analysis. I will be required to pay a \$100.00 DNA collection fee.

**Notification Relating to Specific Crimes: *If any of the following paragraphs DO NOT APPLY, counsel and the defendant shall strike them out. The defendant and the judge shall initial all paragraphs that DO APPLY.***

- \_\_\_\_\_ (n) This offense is a most serious offense or "strike" as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.
- \_\_\_\_\_ (o) The judge may sentence me as a first-time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement and up to one year of community custody plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.
- \_\_\_\_\_ (p) The judge may sentence me under the Parenting Sentencing Alternative if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete either a risk assessment report or a chemical dependency screening report, or both. If the judge decides to impose the Parenting Sentencing Alternative, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At any time during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. The court may modify the conditions of community custody or impose sanctions. If the court finds I violated the conditions or requirements of the sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.
- \_\_\_\_\_ (q) If this crime involves kidnapping involving a minor, including unlawful imprisonment involving a minor who is not my child, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.
- \_\_\_\_\_ (r) If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.
- \_\_\_\_\_ (s) If this crime involves prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.
- \_\_\_\_\_ (t) The judge may sentence me under the drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. If I qualify and the judge is considering a residential chemical dependency treatment-based alternative, the judge may order that I be examined

by DOC before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential chemical dependency treatment-based alternative.

If the judge imposes the **prison-based alternative**, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose a term of community custody of one-half of the midpoint of the standard range.

If the judge imposes the **residential chemical dependency treatment-based alternative**, the sentence will consist of a term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, and I will have to enter and remain in a certified residential chemical dependency treatment program for a period of *three to six months*, as set by the court.

As part of this sentencing alternative, the court is required to schedule a progress hearing during the period of residential chemical dependency treatment and a treatment termination hearing scheduled three months before the expiration of the term of community custody. At either hearing, based upon reports by my treatment provider and the department of corrections on my compliance with treatment and monitoring requirements and recommendations regarding termination from treatment, the judge may modify the conditions of my community custody or order me to serve a term of total confinement equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

During the term of community custody for either sentencing alternative, the judge could prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or other testing to monitor that status, require me to devote time to a specific employment or training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring and require other conditions, such as affirmative conditions, and the conditions described in paragraph 6(e). The judge, on his or her own initiative, may order me to appear in court at any time during the period of community custody to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. If the court finds that I have violated the conditions of the sentence or that I have failed to make satisfactory progress in treatment, the court may modify the terms of my community custody or order me to serve a term of total confinement within the standard range.

- \_\_\_\_\_ (u) If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- \_\_\_\_\_ (v) If this crime involves the manufacture, delivery, or possession with the intent to deliver methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine, including its salts, isomers, and salts of isomers, and if a fine is imposed, \$3,000 of the fine may not be suspended. RCW 69.50.401(2)(b).
- \_\_\_\_\_ (w) If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.

- \_\_\_\_\_ (x) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.
- \_\_\_\_\_ (y) If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor, or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(14).
- \_\_\_\_\_ (z) If I am pleading guilty to felony driving under the influence of intoxicating liquor, or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor, or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation or denial, I must comply with the Department of Licensing ignition interlock device requirements. In addition to any other costs of the ignition interlock device, I will be required to pay an additional fee of \$20 per month.
- \_\_\_\_\_ (aa) For the crimes of vehicular homicide committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12 months to the standard sentence range for each child passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.
- \_\_\_\_\_ (bb) For the crimes of felony driving under the influence of intoxicating liquor, or any drug, for vehicular homicide while under the influence of intoxicating liquor, or any drug, or vehicular assault while under the influence of intoxicating liquor, or any drug, the court may order me to reimburse reasonable emergency response costs up to \$2,500 per incident.
- \_\_\_\_\_ (cc) The crime of \_\_\_\_\_ has a mandatory minimum sentence of at least \_\_\_\_\_ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[n].
- \_\_\_\_\_ (dd) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts \_\_\_\_\_ and \_\_\_\_\_ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.
- \_\_\_\_\_ (ee) The offense(s) I am pleading guilty to include(s) a Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must run consecutively to all

other sentencing provisions.

- \_\_\_\_\_ (ff) The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.
- \_\_\_\_\_ (gg) If I am pleading guilty to (1) unlawful possession of a firearm(s) in the first or second degree and (2) felony theft of a firearm or possession of a stolen firearm, I am required to serve the sentences for these crimes consecutively to one another. If I am pleading guilty to unlawful possession of more than one firearm, I must serve each of the sentences for unlawful possession consecutively to each other.
- \_\_\_\_\_ (hh) I may be required to register as a felony firearm offender under RCW 9.41.\_\_\_\_ The specific registration requirements are in the "Felony Firearm Offender Registration" Attachment.
- \_\_\_\_\_ (ji) If I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance payment shall be made for at least six months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.
- \_\_\_\_\_ (jj) The judge may authorize work ethic camp. To qualify for work ethic authorization my term of total confinement must be more than twelve months and less than thirty-six months, I cannot currently be either pending prosecution or serving a sentence for violation of the uniform controlled substance act and I cannot have a current or prior conviction for a sex or violent offense.

7. I plead guilty to: SEE ATTACHED  
count \_\_\_\_\_  
count \_\_\_\_\_  
count \_\_\_\_\_  
in the 3rd Amended Information. I have received a copy of that Information.
8. I make this plea freely and voluntarily.
9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement: SEE ATTACHED APP B  
\_\_\_\_\_  
\_\_\_\_\_

[ ] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment, if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

X Jant E  
Defendant

I have read and discussed this statement with the defendant. I believe that the defendant is competent and fully understands the statement.

my - HA  
Prosecuting Attorney

William HALSTEAD  
Print Name WSBA No.  
23838

D. Brian  
Defendant's Lawyer  
Print Name WSBA No.  
24637

The defendant signed the foregoing statement in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- ☒ (a) The defendant had previously read the entire statement above and that the defendant understood it in full;  
☒ (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or  
☐ (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is included below.

**Interpreter's Declaration:** I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret in the \_\_\_\_\_ language, which the defendant understands. I have interpreted this document for the defendant from English into that language. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) \_\_\_\_\_, (state) \_\_\_\_\_, on (date) \_\_\_\_\_.

Interpreter

Print Name

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 7/31/14

Richard L. Bracey  
Judge

**Richard L. Bracey**  
Judge

APP A.

IV 51-60

IV 43-57

IV 124-2400

IV 0-364

IV 0-364

IV 60-120

IV 60-120

~~IX~~ 0-90

~~IX~~ 0-364

~~X~~ 60-120

~~X~~ 60-120

~~XI~~ 60-120

~~XII~~ 60-120

~~XIII~~ 60-120

Count E. A.  
7/31/14

App B

BETWEEN APRIL 20, 2011 AND FEB 1, 2013,

I WOULD BUY AND SELL CONTROLLED

SUBSTANCES FROM AND TO OTHERS -

(COUNTS XII, XIII, XIV, XV, XVI) 91

AFTER I WENT INTO CUSTODY ON 2-1-13,  
AND CONTINUING THROUGH DECEMBER 2013,  
I USED THE TELEPHONE TO MAKE CALLS

TO OTHERS. DURING THOSE CALLS I HAD

NUMEROUS CONVERSATIONS REGARDING CONTROLLED

SUBSTANCES, INCLUDING OXYCODONE AND MARIJUANA.

DURING SOME OF THESE CONVERSATIONS I

TALKED WITH MY GIRLFRIEND AND IN NO

UNCERTAIN TERMS ASKED HER NOT TO

COOPERATE WITH LAW ENFORCEMENT  
REGARDING ANY INVESTIGATIONS.

I ALSO ASKED A FRIEND TO GO ONTO <sup>SOME</sup> OF HER WEBSITES TO GAIN INFORMATION THAT I COULD EVENTUALLY USE AGAINST HER IF I NEEDED IT AT A TRIAL  
(CR II, III)

SOME OF THE CONVERSATIONS INCLUDED A I/O OF MARIJUANA WHERE A FRIEND WHO GREW IT GAVE IT TO MY COLLEAGUES AND I CALLED HER ON HOW MUCH TO CHARGE DURING THE SELLING PROCESS.  
(CR. IV, <sup>GM</sup> V)

WHEN SHE WAS CAUGHT WITH THE MARIJUANA I SUGGESTED THAT SHE PAID OUT A MEDICAL MARIJUANA

AUTHORIZATION ON LINE AND FILE IT  
OUT AS IF SHE HAD LEGAL ATTORNEY  
TO HAVE IT.

(CT VI) (GM)

When I WAS USING/DEFENDING PILES  
MY GIRLFRIEND OBSERVED AND LEARNED.

IN MAY 2013, I WAS TALKING HER  
THROUGH A DRUG DEAL - I WAS ON  
THE PHONE WHILE SHE WAS ON  
THE PROCESS OF BUYING AND SELLING.

(CTB VII, VIII)

WHILE I WAS IN DOC CUSTODY I  
HAD MY GIRLFRIEND THROW SOME  
TOBACCO PRODUCTS OVER THE FENCE

AT THE FACTORY I WAS AT

(CT X) (Gm)

Just prior to going into custody in

2/13, my girlfriend and I talked

about applying to be a CAFE

proprietor without actually doing

any work, my girlfriend got the

applications but we could not get

approved because of our backgrounds

(CT. XI) (Gm)

Janet E. Gm

7/3/14

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EXHIBIT 7

IN THE DISTRICT COURT FOR LEWIS COUNTY  
STATE OF WASHINGTON

NO. \_\_\_\_\_

CASE# 13A7516

IN RE: 1) Lewis County Jail  
28 SW Chehalis Ave  
Chehalis WA 98532  
Cell block D2-Down 1 (D1)

SEARCH WARRANT

Evidence of a Crime:

RCW 9A.72.110 Intimidating a Witness

RCW 9A.72.120 Tampering with a Witness

TO: ANY PEACE OFFICER IN LEWIS COUNTY, WASHINGTON

Whereas, the affiant whose name appears on the affidavit attached hereto is a peace officer under the laws of Washington State and did heretofore this day subscribe and swear to said affidavit, herein incorporated by reference, before me and whereas I find that the verified facts stated by affiant in said affidavit show that affiant has probable cause for the belief he/she expresses herein and establishes existence of proper grounds for issuance of this Warrant;

Complaint having been made on oath before me by Officer Haggerty #328, a peace officer, that he/she has reason to believe, and does believe, that inside of the Lewis County Jail located at 28 SW Chehalis Avenue in Chehalis Washington, Lewis Count, cell #D2, down 1 (D1) and personal property belonging to Amos the aforementioned

crimes are being committed. I believe and there is present, inside of this vehicle, certain evidence of the following crime(s):

RCW 9A.72.110 Intimidating a Witness

RCW 9A.72.120 Tampering with a Witness

I am satisfied, based upon the Search Warrant Affidavit, that there is probable cause to believe that evidence of the above listed crime(S) is present and that grounds for the issuance of the Search Warrant exists.

NOW THEREFORE, you are hereby ordered to serve this Warrant within 10 days and search the above described property for:

1. Any and all stationary, pens, pencils, paper, postcards, photographs and real property used to write letters, post cards, and personal letters to associates on the inside and outside of the Lewis County Jail.
2. Any and all letters drafted by Amos or intended for Amos that he received while incarcerated at the Lewis County Jail.
3. Any and all mail addressed as "legal mail", including but not limited letters sent by Amos or received by Amos. These letters are to be inspected to confirm the authenticity of whether or not Defense Attorney Don Blair was the actual sender/ recipient.
4. Any and all address books, phone books, friend lists, passwords for email, social media, witness names, addresses and phones numbers that may be hand written or listed on police reports or other documents.

And if said property be found, to seize said property and to inventory the property in writing and to keep it safely and to make a return of this Warrant including a written inventory of the property seized to this Court or to some other Magistrate or Court having jurisdiction over this matter.

A copy of this Warrant shall be served on the person or persons found in possession of the property described and those persons shall be given a receipt for the property seized.

SEARCH WARRANT

Revised 6/13/2014

DATED this 17th day of June, 2014.

Honorable Judge Buzzard

*HW Buzzard*

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EXHIBIT 8

RETURN OF SEARCH WARRANT

STATE OF WASHINGTON )

NO. \_\_\_\_\_

) SS.

CITY OF CENTRALIA )

13A7516

LEWIS COUNTY )

THIS IS TO CERTIFY that I have received the within Search Warrant on the 18th day of June, 2016, and that pursuant to the command therein contained, I made due and diligent search of the property described therein and found the following:

- Letters, "Legal mail", Postcards
- Address book
- Pencils

Stationery w/ cardboard backing

NAMES OF PERSONS found in possession of property: Forrest E Amos

NAMES OF PERSON served with true and complete copy of Search Warrant: Forrest Amos

DESCRIPTION of door or conspicuous place where copy of Search Warrant was posted:

Handed to Amos

Search was conducted on the 18th day of June, 2016

PLACE where property is now kept: EVIDENCE VAULT ☒ LAB ☐ OTHER ☐

DATED this 18th day of June, 2016

WITNESSES: Endorse-324

Officer

[Signature] #328

DECLARATION OF SERVICE BY MAIL  
GR 3.1

I, Forrest Eugene Amos, declare and say:

That on the 5<sup>th</sup> day of January, 2016, I deposited the following documents in the Stafford Creek Correction Center Legal Mail system, by First Class Mail pre-paid postage, under cause No. "New PRP":

PERSONAL RESTRAINT PETITION RAP 16.3(a);  
WITH 8 EXHIBITS ATTACHED.

addressed to the following:

COURT OF APPEALS, DIV. 2  
CLERK: DAVID PONZOAH  
950 BROADWAY, SUITE 300  
TACOMA, WA 98402-4454

FILED  
COURT OF APPEALS  
DIVISION II  
2016 JAN 11 AM 9:11  
STATE OF WASHINGTON  
BY  
DEPUTY

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED THIS 5<sup>th</sup> day of January, 2016, in the City of Aberdeen, County of Grays Harbor, State of Washington.

\* "PRISON MAIL BOX  
RULE APPLIES"

FILED 1-5-16

Forrest E Amos  
Signature

Forrest Eugene Amos  
Print Name

DOC 809903 UNIT 1mu  
STAFFORD CREEK CORRECTIONS CENTER  
191 CONSTANTINE WAY  
ABERDEEN WA 98520